

**Introduced by Senator Torres**

February 18, 2014

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An act to amend Sections 5100, 18201, 18202, 18203, 18204, 18600, 18601, 18603, 18604, 18610, 18611, 18612, 18613, 18614, 18620, 18621, 18622, 18630, 18631, 18640, 18650, 18660, and 18661 of, and to add Section 338.5 to, the Elections Code, relating to elections.

**LEGISLATIVE COUNSEL'S DIGEST**

SB 1043, as introduced, Torres. Elections: in-lieu-filing fee and political party qualification petitions: penal provisions.

Existing law authorizes a party to qualify to participate in any primary election if specified requirements are met, including the filing with the Secretary of State a petition signed by voters declaring that the voters represent a proposed party desiring to participate in that primary election.

This bill would define the term “political party qualification petition” for these purposes to mean a petition circulated to qualify a political party in accordance with existing procedures.

Existing law provides that a person committing specified activities relating to the circulation, subscription, or signature of an initiative, referendum, or recall petition is guilty of a misdemeanor or felony or subject to a fine or imprisonment or both that fine and imprisonment.

This bill would additionally provide that a person committing these specified activities in relation to the circulation, subscription, or signature of a political party qualification petition would be subject to the above penal provisions.

Existing law authorizes a candidate to submit a petition containing signatures of registered voters in lieu of a filing fee, as specified. Existing law also provides that any person who commits specified

fraudulent or deliberate activities relating to the filing of any nomination paper or declaration of candidacy is guilty of a misdemeanor or subject to a fine or imprisonment, or both that fine and imprisonment.

This bill would additionally provide that a person committing these specified activities in relation to the submission of an in-lieu-filing fee petition would be subject to the penal provisions specified above. By creating additional crimes, this bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: yes.

*The people of the State of California do enact as follows:*

1     SECTION 1. Section 338.5 is added to the Elections Code, to  
2     read:  
3     338.5. “Political party qualification petition” means a petition  
4     circulated to qualify a political party in accordance with Division  
5     5 (commencing with Section 5000).  
6     SEC. 2. Section 5100 of the Elections Code is amended to read:  
7     5100. A party is qualified to participate in any primary election  
8     under any of the following conditions:  
9     (a) If at the last preceding gubernatorial election there was polled  
10    for any one of its candidates for any office voted on throughout  
11    the state, at least 2 percent of the entire vote of the state.  
12    (b) If on or before the 135th day before any primary election,  
13    it appears to the Secretary of State, as a result of examining and  
14    totaling the statement of voters and their political affiliations  
15    transmitted to him or her by the county elections officials, that  
16    voters equal in number to at least 1 percent of the entire vote of  
17    the state at the last preceding gubernatorial election have declared  
18    their intention to affiliate with that party.  
19    (c) If on or before the 135th day before any primary election,  
20    there is filed with the Secretary of State a *political party*  
21    *qualification* petition signed by voters, equal in number to at least  
22    10 percent of the entire vote of the state at the last preceding

gubernatorial election, declaring that ~~they~~ *the voters signing the petition* represent a proposed party, the name of which shall be stated in the petition, which proposed party those voters desire to have participate in that primary election. This petition shall be circulated, signed, verified and the signatures of the voters on it shall be certified to and transmitted to the Secretary of State by the county elections officials substantially as provided for initiative petitions. Each page of the petition shall bear a caption in 18-point boldface type, which caption shall be the name of the proposed party followed by the words “Petition to participate in the primary election.”

SEC. 3. Section 18201 of the Elections Code is amended to read:

18201. Any person who falsely makes or fraudulently defaces or destroys all or any part of a nomination paper *or an in-lieu-filing-fee petition*, is punishable by a fine not exceeding one thousand dollars (\$1,000) or by imprisonment pursuant to subdivision (h) of Section 1170 of the Penal Code for 16 months or two or three years or by both that fine and imprisonment.

SEC. 4. Section 18202 of the Elections Code is amended to read:

18202. Every person acting on behalf of a candidate is guilty of a misdemeanor who deliberately fails to file at the proper time and in the proper place any nomination paper, *in-lieu-filing-fee petition*, or declaration of candidacy in his or her possession that is entitled to be filed under this code.

SEC. 5. Section 18203 of the Elections Code is amended to read:

18203. Any person who files or submits for filing a nomination paper, *in-lieu-filing-fee petition*, or declaration of candidacy knowing that it or any part of it has been made falsely is punishable by a fine not exceeding one thousand dollars (\$1,000) or by imprisonment pursuant to subdivision (h) of Section 1170 of the Penal Code for 16 months or two or three years or by both that fine and imprisonment.

SEC. 6. Section 18204 of the Elections Code is amended to read:

18204. Any person who willfully suppresses all or any part of a nomination paper, *in-lieu-filing-fee petition*, or declaration of candidacy either before or after filing is punishable by a fine not

1 exceeding one thousand dollars (\$1,000) or by imprisonment  
2 pursuant to subdivision (h) of Section 1170 of the Penal Code for  
3 16 months or two or three years or by both that fine and  
4 imprisonment.

5 SEC. 7. Section 18600 of the Elections Code is amended to  
6 read:

7 18600. Every person is guilty of a misdemeanor who:

8 (a) Circulating, as principal or agent, or having charge or control  
9 of the circulation of, or obtaining signatures to, any state or local  
10 initiative, referendum—~~or, recall—petition, or political party~~  
11 *qualification petition*, intentionally misrepresents or intentionally  
12 makes any false statement concerning the contents, purport or  
13 effect of the petition to any person who signs, or who desires to  
14 sign, or who is requested to sign, or who makes inquiries with  
15 reference to it, or to whom it is presented for his or her signature.

16 (b) Willfully and knowingly circulates, publishes, or exhibits  
17 any false statement or misrepresentation concerning the contents,  
18 purport or effect of any state or local initiative, referendum,—~~or~~  
19 ~~recall—petition, or political party qualification petition~~ for the  
20 purpose of obtaining any signature to, or persuading or influencing  
21 any person to sign, that petition.

22 (c) Circulating, as principal or agent, or having charge or control  
23 of the circulation of, or obtaining signatures to, any state or local  
24 initiative, *or political party qualification petition* intentionally  
25 makes any false statement in response to any inquiry by any voter  
26 as to whether he or she is a paid signature gatherer or a volunteer.

27 SEC. 8. Section 18601 of the Elections Code is amended to  
28 read:

29 18601. Any person working for the proponent or proponents  
30 of an initiative or referendum measure—~~or, recall petition, or~~  
31 *political party qualification petition* who refuses to allow a  
32 prospective signer to read the measure or petition is guilty of a  
33 misdemeanor.

34 An arrest or conviction pursuant to this section shall not  
35 invalidate or otherwise affect the validity of any signature obtained  
36 by the person arrested or convicted.

37 SEC. 9. Section 18603 of the Elections Code is amended to  
38 read:

39 18603. Every person who offers or gives money or other  
40 valuable consideration to another in exchange for his or her

1 signature on a state, county, municipal, or district initiative,  
2 referendum,~~or recall-petition~~, *or political party qualification*  
3 *petition* is guilty of a misdemeanor.

4 SEC. 10. Section 18604 of the Elections Code is amended to  
5 read:

6 18604. Upon conviction of a violation of any provision of this  
7 article, Article 2 (commencing with Section 18610), Article 3  
8 (commencing with Section 18620), Article 5 (commencing with  
9 Section 18640), Article 6 (commencing with Section 18650), or  
10 Article 7 (commencing with Section 18660), the court may order  
11 as a condition of probation that the convicted person be prohibited  
12 from receiving money or other valuable consideration for gathering  
13 signatures on an initiative, referendum,~~or recall-petition~~, *or*  
14 *political party qualification petition*.

15 SEC. 11. Section 18610 of the Elections Code is amended to  
16 read:

17 18610. Every person who solicits any circulator to affix to any  
18 initiative, referendum,~~or recall-petition~~, *or political party*  
19 *qualification petition* any false or forged signature, or to cause or  
20 permit a false or forged signature to be affixed, is guilty of a  
21 misdemeanor.

22 SEC. 12. Section 18611 of the Elections Code is amended to  
23 read:

24 18611. Every person is punishable by a fine not exceeding five  
25 thousand dollars (\$5,000), or by imprisonment pursuant to  
26 subdivision (h) of Section 1170 of the Penal Code for 16 months  
27 or two or three years, or in a county jail not exceeding one year,  
28 or by both that fine and imprisonment, who circulates or causes  
29 to be circulated any initiative, referendum,~~or recall-petition~~, *or*  
30 *political party qualification petition*, knowing it to contain false,  
31 forged, or fictitious names.

32 SEC. 13. Section 18612 of the Elections Code is amended to  
33 read:

34 18612. Every person is guilty of a misdemeanor who knowingly  
35 signs his or her own name more than once to any initiative,  
36 referendum,~~or recall-petition~~, *or political party qualification*  
37 *petition*, or signs his or her name to that petition knowing himself  
38 or herself at the time of signing not to be qualified to sign it.

39 SEC. 14. Section 18613 of the Elections Code is amended to  
40 read:

1 18613. Every person who subscribes to any initiative,  
2 referendum,~~or recall petition~~, *or political party qualification*  
3 *petition* a fictitious name, or who subscribes thereto the name of  
4 another, or who causes another to subscribe such a name to that  
5 petition, is guilty of a felony and is punishable by imprisonment  
6 pursuant to subdivision (h) of Section 1170 of the Penal Code for  
7 two, three, or four years.

8 SEC. 15. Section 18614 of the Elections Code is amended to  
9 read:

10 18614. Every person is punishable by a fine not exceeding five  
11 thousand dollars (\$5,000), or by imprisonment pursuant to  
12 subdivision (h) of Section 1170 of the Penal Code for 16 months  
13 or two or three years, or in a county jail not exceeding one year,  
14 or by both that fine and imprisonment, who files in the office of  
15 the elections official or other officer designated by law to receive  
16 the filing, any initiative, referendum,~~or recall petition~~, *or political*  
17 *party qualification petition* to which is attached, appended or  
18 subscribed any signature which the person filing the petition *or*  
19 *measure* knows to be false or fraudulent or not the genuine  
20 signature of the person whose name it purports to be.

21 SEC. 16. Section 18620 of the Elections Code is amended to  
22 read:

23 18620. Every person who seeks, solicits, bargains for, or  
24 obtains any money, thing of value, or advantage of or from any  
25 person, firm, or corporation for the purpose or represented purpose  
26 of fraudulently inducing, persuading, or seeking the proponent or  
27 proponents of any initiative or referendum measure~~or~~, recall  
28 petition, *or political party qualification petition* to (a) abandon the  
29 measure or petition, (b) fail, neglect, or refuse to file in the office  
30 of the elections official or other officer designated by law, within  
31 the time required by law, the initiative or referendum measure~~or~~,  
32 recall petition, *or political party qualification petition* after securing  
33 the number of signatures required to qualify the measure or  
34 petition, (c) stop the circulation of the initiative or referendum  
35 measure~~or~~, recall petition, *or political party qualification petition*,  
36 or (d) perform any act that will prevent or aid in preventing the  
37 initiative or referendum measure~~or~~, recall petition, *or political*  
38 *party qualification petition* from qualifying as an initiative or  
39 referendum measure, or the recall petition from resulting in a recall  
40 election, *or political party qualification petition from qualifying*

1 *a party* is punishable by a fine not exceeding five thousand dollars  
2 (\$5,000), or by imprisonment pursuant to subdivision (h) of Section  
3 1170 of the Penal Code for 16 months or two or three years, or in  
4 a county jail not exceeding one year, or by both that fine and  
5 imprisonment.

6 SEC. 17. Section 18621 of the Elections Code is amended to  
7 read:

8 18621. Any proponent of an initiative or referendum measure  
9 ~~or~~, recall petition, *or political party qualification petition* who  
10 seeks, solicits, bargains for, or obtains any money or thing of value  
11 of or from any person, firm, or corporation for the purpose of  
12 abandoning the same or stopping the circulation of petitions  
13 concerning the same, or failing or neglecting or refusing to file the  
14 measure or petition in the office of the elections official or other  
15 officer designated by law within the time required by law after  
16 obtaining the number of signatures required under the law to  
17 qualify the measure or petition, or performing any act that will  
18 prevent or aid in preventing the initiative, referendum~~or~~, recall,  
19 *or political party* proposed from qualifying as an initiative or  
20 referendum measure,~~or~~ resulting in a recall election, *or qualifying*  
21 *as a political party by a political party qualification petition* is  
22 punishable by a fine not exceeding five thousand dollars (\$5,000)  
23 or by imprisonment pursuant to subdivision (h) of Section 1170  
24 of the Penal Code for 16 months or two or three years, or in a  
25 county jail not exceeding one year, or by both that fine and  
26 imprisonment.

27 SEC. 18. Section 18622 of the Elections Code is amended to  
28 read:

29 18622. Every person who offers to buy or does buy from a  
30 circulator any referendum, initiative,~~or~~ recall~~petition~~, *or political*  
31 *party qualification petition* on which one or more persons have  
32 affixed their signatures is guilty of a misdemeanor punishable by  
33 imprisonment in the county jail for not more than one year, or by  
34 a fine not exceeding one thousand dollars (\$1,000), or both. This  
35 section is not intended to prohibit compensation of a circulator,  
36 for his or her services, by a proponent of the petition or his or her  
37 agent.

38 SEC. 19. Section 18630 of the Elections Code is amended to  
39 read:

1 18630. Every person who threatens to commit an assault or  
2 battery on a person circulating a referendum, initiative, ~~or recall~~  
3 ~~petition, or political party qualification petition~~ or on a relative  
4 of a person circulating a referendum, initiative, ~~or recall~~ ~~petition,~~  
5 ~~or political party qualification petition~~ or to inflict damage on the  
6 property of the circulator or the relative, with the intent to dissuade  
7 the circulator from circulating the petition or in retribution for the  
8 circulation, is guilty of a misdemeanor.

9 SEC. 20. Section 18631 of the Elections Code is amended to  
10 read:

11 18631. Every person who forcibly or by stealth takes from the  
12 possession of a circulator any initiative, referendum, ~~or recall~~  
13 ~~petition, or political party qualification petition~~ on which one or  
14 more persons have affixed their signatures is guilty of a  
15 misdemeanor.

16 SEC. 21. Section 18640 of the Elections Code is amended to  
17 read:

18 18640. Any person working for the proponent or proponents  
19 of an initiative or referendum measure ~~or, or a recall~~ ~~petition or~~  
20 ~~political party qualification petition~~, who solicits signatures to  
21 qualify the measure or petition and accepts any payment therefor  
22 and who fails to surrender the measure or petition to the proponents  
23 thereof for filing is punishable by a fine not exceeding five  
24 thousand dollars (\$5,000), or by imprisonment pursuant to  
25 subdivision (h) of Section 1170 of the Penal Code for 16 months  
26 or two or three years, or in a county jail not exceeding one year,  
27 or by both that fine and imprisonment.

28 SEC. 22. Section 18650 of the Elections Code is amended to  
29 read:

30 18650. No one shall knowingly or willfully permit the list of  
31 signatures on an initiative, referendum, ~~or recall~~ ~~petition, or~~  
32 ~~political party qualification petition~~ to be used for any purpose  
33 other than qualification of the initiative or referendum measure or  
34 recall question for the ballot ~~or political party~~, except as provided  
35 in Section 6253.5 of the Government Code. Violation of this  
36 section is a misdemeanor.

37 SEC. 23. Section 18660 of the Elections Code is amended to  
38 read:

39 18660. Every person is punishable by a fine not exceeding five  
40 thousand dollars (\$5,000), or by imprisonment pursuant to



1 subdivision (h) of Section 1170 of the Penal Code for 16 months  
2 or two or three years, or in a county jail not exceeding one year,  
3 or by both that fine and imprisonment, who makes any false  
4 affidavit concerning any initiative, referendum, ~~or recall petition,~~  
5 *or political party qualification petition* or the signatures appended  
6 thereto.

7 SEC. 24. Section 18661 of the Elections Code is amended to  
8 read:

9 18661. Every public official or employee is punishable by a  
10 fine not exceeding five thousand dollars (\$5,000), or by  
11 imprisonment pursuant to subdivision (h) of Section 1170 of the  
12 Penal Code for 16 months or two or three years, or in a county jail  
13 not exceeding one year, or by both that fine and imprisonment,  
14 who knowingly makes any false return, certification or affidavit  
15 concerning any initiative, referendum, ~~or recall petition,~~ *or political*  
16 *party qualification petition* or the signatures appended thereto.

17 SEC. 25. No reimbursement is required by this act pursuant to  
18 Section 6 of Article XIII B of the California Constitution because  
19 the only costs that may be incurred by a local agency or school  
20 district will be incurred because this act creates a new crime or  
21 infraction, eliminates a crime or infraction, or changes the penalty  
22 for a crime or infraction, within the meaning of Section 17556 of  
23 the Government Code, or changes the definition of a crime within  
24 the meaning of Section 6 of Article XIII B of the California  
25 Constitution.